

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIAHR 24/21
(Inmate Number)MARCULLUS fb. JONES
(Name of Plaintiff)100 Pine St
(Address of Plaintiff)HUNTINGDON P.A. 16654-112

vs.

JOHN WETZEL ET AL

(Names of Defendants)

COMPLAINT

FILED
SCRANTON
MAY 22 2013Per _____
DEPUTY CLERKTO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

MARCULLUS fb. JONES v. TAYLOR ET AL 3:12-CV-0487I DONT KNOW WHICH JUDGE THE CASE WAS ASSIGNED TO BUT I
BELIEVE IT TO BE JUDGE MUNLEY

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?

 Yes No

- B. Have you filed a grievance concerning the facts relating to this complaint?

 Yes No

If your answer is no, explain why not _____

- C. Is the grievance process completed? Yes No

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

- A. Defendant JOHN WETZEL is employed
as SECRETARY/HEAD OF THE P.A.D.O.C AT P.A.D.O.C HEADQUARTERS @ 1920 TECHNOLOGY PARKWAY MECHANICSBURG PA 17050
- B. Additional defendants DORINNE VARNER IS THE CHIEF GRIEVANCE OFFICER @ 1920 TECHNOLOGY PARKWAY MECHANICSBURG PA 17050; TABB BICKELL IS THE WARDEN/SUPERINTENDENT K. WALTERS & HARRIS ARE CAPTAINS FOGLE IS A LIEUTENANT OR BOAL LONG CHERRY & NELSON ARE CORRECTIONS OFFICERS ("C.O'S") AT SEC'T HUNTINGDON PLANS WITH MEDICAL SUPERVISOR MARY LOU SHAWA ITERS

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. ON OR ABOUT MAY 15, 2011 I WAS SUBJECT TO CRUEL & UNUSUAL PUNISHING TREATMENT WHEN LIEUTENANT FOGLE ORDERED BOAL LONG CHERRY & NELSON TO SPRAY ME WITH EXCESSIVE AMOUNTS OF PEPPER "O.C" SPRAY CAUSING ME TO FALL UNCONSCIOUS TABB BICKELL MARY-LOU SHAWA CAPTAINS K. WALTERS & HARRIS GAVE FOGLE &
 2. HIS SUBORDINATE STAFF MEMBER APPROVAL OR AUTHORIZATION TO SPRAY ME IN DELIBERATE INDIFFERENCE TO MY SEVERELY ASTHMATIC MEDICAL CONDITIONS OR MY MENTAL HEALTH DISORDERS FURTHER JOHN WETZEL & DORINNE VARNER THRU PRESTIGE OR CALLOUS INDIFFERENCE IGNORED MY NUMEROUS LETTERS OR THE GRIVANCE
 3. I FILED NOTIFYING THEM OF MY COMPLAINTS
-
-
-

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. I NEED TO THE COURT(S) TO ISSUE INJUNCTIONS & DECLARATORY

RELIEF ALONG WITH PUNITIVE OR COMPENSATORY DAMAGES AS AWARDED FOR PIA DOCS
STAFFS VIOLATIONS OF MY CONSTITUTIONAL RITES

2.

3.

Signed this 6th day of MAY, 2013.

MARYLILIS B. JONES
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

MAY 6, 2013
(Date)

MARYLILIS B. JONES
(Signature of Plaintiff)

MARCELLUS BO. JONES, : CIVIL COMPLAINT #: #
PLAINTIFF,
V.
JOHN WETZEL ET AL.,
DEFENDANT(S).

FILED
SCRANTON

MAY 22 2013

Per _____ DEPUTY CLERK

1. JURISDICTION & VENUE

1 THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. SECTION 1983 TO REDRESS THE DEPRIVATION
UNDER COLOR OF STATE LAW OF RITES SECURED BY THE CONSTITUTION OF THE UNITED STATES.
THE COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION (7) 1331 & 1333 (a)(3). PLAINTIFF SEEKS
DECLARATORY RELIEF PURSUANT TO 28 U.S.C. SECTION 2201 & 2202. PLAINTIFF'S CLAIMS FOR
RELIEF IN VIOLATION OF A.D.F.R. ARE AUTHORIZED UNDER 42 U.S.C. SECTION 12131 (2) &
12131 (1). PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 U.S.C.
SECTION 2283 & 2284 AND THE RULE 65 OF FED. R. CIV. P.

2 IN THE UNITED STATES DISTRICT COURT(S) FOR THE MIDDLE DISTRICT OF PENNSYLVANIA IS AN APPROPRIATE VENUE UNDER 28 U.S.C. SECTION 1331 (b)(2) BECAUSE IT IS WHERE THE EVENTS GIVEN
TO THIS CLAIM OCCURRED.

II. PLAINTIFF

3 MARCELLUS BO. JONES, PLAINTIFF IS & WAS AT ALL TIMES MENTIONED & RELEVANT HEREIN A PRISONER
OF THE STATE OF PENNSYLVANIA IN THE CUSTODY OF THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS.
HE IS CURRENTLY CONFINED IN SEC. HUNTINGDON PA. HUNTINGDON COUNTY.

III. DEFENDANT(S)

4 DEFENDANT JOHN WETZEL IS THE COMMISSIONER OF THE PENNSYLVANIA DEPARTMENT OF THE
CORRECTIONS HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT &
EACH INDIVIDUAL INSTITUTION UNDER THEIR JURISDICTION.

5 DEFENDANT BORINA WALKER IS & WAS AT ALL TIMES MENTIONED & RELEVANT HEREIN THE CHIEF
GRATITUDE OFFICER FOR THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS SHE IS LEGALLY RESPONSIBLE
FOR PROVIDING REMEDIES TO GRIEVANCES ISSUES VIOLATIONS
OF LAWS OR VIOLATIONS OF DEPT. OF CORRECTIONS POLICY.

6 DEFENDANT: RICHARD HARRIS IS THE WARDEN / SUPERINTENDENT OF THE JAIL. HE IS RESPONSIBLE
 7 FOR THE OPERATION OF S.C.I. HUNTINGDON & THE WELFARE OF ALL THE PRISONERS THERE.

7 DEFENDANT: K. WALTERS; IS A CAPTAIN @ S.C.I. HUNTINGDON

8 DEFENDANT: HARRIS; IS A CAPTAIN @ S.C.I. HUNTINGDON

9 DEFENDANT: FOLEY; IS A LIEUTENANT @ S.C.I. HUNTINGDON

10 DEFENDANT: BOAL; IS A CORRECTIONS OFFICER ("C.O.") @ S.C.I. HUNTINGDON

11 DEFENDANT: LONG; IS A CORRECTIONS OFFICER ("C.O.") @ S.C.I. HUNTINGDON

12 DEFENDANT: CHERRY; IS A CORRECTIONS OFFICER ("C.O.") @ S.C.I. HUNTINGDON

13 DEFENDANT: NELSON; IS A CORRECTIONS OFFICER ("C.O.") @ S.C.I. HUNTINGDON

14 DEFENDANT: MARY-LOU SHOWALTERS (?) IS THE HEAD MEDICAL SUPERVISOR FOR THE MEDICAL
 DEPARTMENT @ S.C.I. HUNTINGDON

EACH DEFENDANT IS SUED INDIVIDUALLY & IN HIS OR HER OFFICIAL CAPACITY AT ALL TIMES MENTIONED
 - IN THIS COMPLAINT EACH DEFENDANT ACTED UNDER COLOR OF STATE LAW

IV. Complaint

15 MARCUS R. JONES, (plaintiff), HEREBY COMPLAINING AGAINST DEFENDANT(S) CAPTIONED ABOVE,

V. Background

16 sometime during the week of May 9, 2011, IN THE EARLY MORNING HOURS, S.C.I. HUNTINGDON RESTRICTED HUNKIN UNIT ("R.H.U.") STAFF ANNOUNCED OVER THE LOUD SPEAKER THAT "BASICS" (i.e. BASIC HYGIENE SUPPLIES TOOTHPASTE & SOAP ET AL) ARE BEING GIVEN OUT. AS JONES STOOD AT HIS CELLS' DOOR AS ORDERED WAITING TO BE GIVEN BASICS, BOAL WHO WAS ASSIGNED THE DUTY OF GIVING OUT BASICS THIS DAY STOPPED IN FRONT OF THE CELL JONES WAS HOUSED IN. HE TOOK THE LOCKS OFF OF THE FEEDING APERTURE IN ORDER TO GIVE JONES THE BASICS THAT HE NEEDED. AT THIS TIME BOAL FOR HIS OWN UNKNOWN INDULGENCE RE-LOCKED THE LOCKS OF THE CELLS FEEDING APERTURE & STATED TO JONES "YOU'RE NOT GETTING SHIT BITCH" & WALKED AWAY. JONES THEN REQUESTED TO SPEAK TO A LIEUTENANT TO HAVE THE PROBLEM OF NOT GETTING ANY HYGIENE SUPPLIES FIXED. JONES EVENTUALLY SPoke TO FOLEY & WAS TOLD HE'S NOT GETTING SHIT....". SO JONES THEN ASKED IF HE COULD SPEAK WITH A CERTAIN OR ANOTHER OF FOLEY'S SUPERVISORS, TO WHICH FOLEY STATED "YOU BETTER SHUT THE FUCK UP UNLESS U WANT TO GET PAINTED ORANGE (MEANING EXCESSIVE USE OF PEPPER SPRAY)". JONES, THEN COVERED HIS CELLS DOOR WITH HIS TOWEL IN ORDER TO HAVE ONE OF FOLEY'S SUPERVISORS ON DUTY ADDRESS HIS COMPLAINT. JONES WAS THEN "PAINTED ORANGE", AS HE WAS SPRAYED WITH OVERWHELMING AMOUNTS OF "O.C." PEPPER SPRAY UNTIL HE WAS RENDERED UNCONSCIOUS - SEMI-CONSCIOUS, BY LONG FOLEY, CHERRY & BOAL & NELSON. JONES WAS THEN PARADED NUDE THRU S.C.I. HUNTINGDON'S R.H.U. TO HUMILIATE, EMBARRASS & PSYCHOLOGICALLY TRAUMATIZE HIM. HE WAS CARRIED NUDE IN FRONT OF FEMALE MEDICAL STAFF & OTHER PRISONERS.

AS A RESULT OF THE EXCRUCIATING & CRUEL PUNISHMENT BY BOP, BOAL, LONG ETC.
JONES WAS LEFT TO SUFFER HORRIFIC PAIN AS THE COMBINATION OF TOO MUCH O.C. OR JONES'
SEVERE WELL DOCUMENTED ASTHMA CONDITION LEFT HIM COMATOSE

VI. FACTS

17 THAT ON THE DATE IN QUESTION JONES WAS IN S.C.'S HUNTINGTON'S R.H.U. & COMPLAINED
WITH ALL DRAWS GIVEN IN EXPECTATION OF RECEIVING HYGIENE SUPPLIES

18 THAT FOR REASON BOP DENIED JONES ANY HYGIENE SUPPLIES

19 THAT JONES REPORTED THIS DENIAL TO FOOLIE WHO IN FURTHERANCE OF THIS UNWARRANTED
-ED DENIAL REFUSED JONES ANY OTHER REMEDIES

20 THAT JONES LACK OF CONSCIOUSNESS WAS CAUSED BY FOOLIE BOAL LONG CHERRY NELSON'S EXCESSIVE
O.C. USAGE & THAT BICKELL, K-WALTER & HARRIS AUTHORIZED THIS EXCESSIVE O.C.
USAGE

21 THAT JONES WAS UNDER THE INFLUENCE OF PSYCHOTROPIC MEDICATIONS FOR HIS MENTAL HEALTH
DISORDERS

22 THAT MEDICAL SUPERVISOR MARY-LOU SHOULDRS APPRAVED OF O.C. USAGE AGAINST
JONES CAUSING HIM TO PASS OUT FROM AGONY & SUFFERAGE

VII. LEGAL CLAIMS

(1) CRUEL & UNUSUAL PUNISHMENT (OBJECTIVE STANDARD)

23 THAT JONES WAS & IS BEING SUBJECTED TO CRUEL & UNUSUAL PUNISHMENT IN VIOLATION
24 OF THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION & ART. I § 13 OF THE P.A. CONSTITUTION
BY USING EXCESSIVE FORCE SUBJECTING HIM TO UNNECESSARY WANTON INFILCTION OF
PHYSICAL & MENTAL PAIN VIOLATING CIVILIZED STANDARDS OF HUMAN DECENCY
THRU THEIR ACTIONS & OMISSIONS THE DEFENDANTS HAVE BEEN OR CONTAINUES WITH
MARY LOU TO SUBJECT JONES TO TERRIFIC TORTURIOUS CONFINEMENT THESE PUNISHMENTS/
TORTURE INCLUDES BUT ARE NOT LIMITED TO:

I THE PLAINTIFF DOES NOT USE THE TERM "TORTURE" LIGHTLY, IN FACT THE CONDUCT OF DEFENDANTS FOOLIE BOAL,
CHERRY LONG & NELSON MEETS THE LEGAL DEFINITION OF TORTURE WITHIN THE FEDERAL TORTURE ACT:

(1) "TORTURE" MEANS AN ACT COMMITTED BY A PERSON ACTING UNDER THE COLOR OF LAW SPECIFICALLY
INTENDED TO INFILCT SEVERE PHYSICAL OR MENTAL PAIN OR SUFFERING,

(2) "SEVERE MENTAL PAIN OR SUFFERING" MEANS THE PROLONGED MENTAL HARM CAUSED BY OR RESULTING
FROM -- (A) THE INTENTIONAL INFILCTION OR THREATENED INFILCTION OF SEVERE PHYSICAL PAIN OR SUFFERING

29 U.S.C. § 2340 A (a)

(ii) USING EXCESSIVE FORCE AGAINST JONES BEYOND HUMAN DECENCY STANDARDS

(iii) CARRYING JONES NUDELY THRU THE R.H.U. CAUSING HIM TO SUFFER CONTINUOUS RIDICULE FROM OTHER PATRONERS OR STAFF HUNTINGTON STAFF

25

(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES (SUBSTANTIVE STANDARD - DELIBERATE INDIFFERENCE)

(iv) JONES HAS FILED OR APPEALED THE PRISON'S GRIEVANCE REQUIREMENT TO NO AVAIL

(v) JONES ALSO HAS SENT NUMEROUS LETTERS TO JOHN WETZEL, JAMES BARNACLE & OTHER P.A. O.O.C. STAFF & HAS NOT GOTTEN ANY RELIEF YET

(vi) JONES NOTIFIED TABB BICKELL, DEPUTIES ECKERD & GARMIN ETC. TO INFORM SECY HUNTINGTON'S ADMINISTRATIVE SUPERVISOR OF IMPORTANT WITNESS WITH INFORMATION RELEVANT TO THIS MATCH

VIII. EMOTIONAL OR MENTAL INJURY

26

JONES AS A RESULT OF THIS UNNECESSARY WANTON ASSAULT HAS BECOME EXTREMELY DEPRESSED & MOOD SWINGS & DETRIMENTALLY SUICIDAL DUE TO THE DEFENDANT'S UNNecessary INFILTRATION OF PHYSICAL MENTAL & EMOTIONAL HARASSMENT OF HIM

27

PLAINTIFF AVERS THAT A "SPECIAL RELATIONSHIP" EXISTS BETWEEN JOHN WETZEL, DORINA VARNER, TABB BICKELL, MARY-LOU SHOWALTERS, K-WALTERS & HARRIS THESE OFFICIALS WERE CHARGED A DUTY ENSURING A SAFE PRISON ENVIRONMENT

28

THESE DEFENDANTS ARE LIABLE FOR THE UNCONSTITUTIONAL ACTS OF THE DEFENDANT CO'S INVOLVED IN THE EVENTS COMPLAINED OF DUE TO THEIR NEGLIGENCE REGARDING LAWS PROMulgATION OR ENFORCEMENT OF THE RULES REGULATIONS OR POLICIES CUSTOMS OR USAGES WHICH WERE IN EFFECT PRIOR TO & AT THE TIME OF THE EVENTS IN QUESTION

TO PLAINTIFF (A) IN DELIBERATE INDIFFERENCE TO & IN RECKLESS DISREGARD OF THE INCLUDING BUT NOT LIMITED TO DEFENDANT(S) JOHN WETZEL TABB BICKELL K-WALTERS MARY-LOU SHOWALTERS & HARRIS GAVE THEIR APPROVAL THRU SILENT CONSENT & OR ACQUIESCE TO THEIR SUBORDINATE STAFF MEMBERS CONDONING THE EXCESSIVE UNNECESSARY USE OF FORCE USED AGAINST JONES IN VIOLATION OF HIS EIGHTH AMENDMENT RIGHTS

(B) IN DELIBERATE INDIFFERENCE TO & IN RECKLESS DISREGARD OF THE THREAT THE OFFICIAL PRACTICE OR CUSTOM OF O.C. USAGE POSED TO JONES'S ~~HEALTH~~ SAFETY & WELFARE AS AN AMERICAN WITH DISABILITIES THESE DEFENDANT(S) JOHN WETZEL DORINA VARNER TABB BICKELL MARY-LOU SHOWALTERS K-WALTERS & HARRIS CONSENTED TO & AUTHORIZED THE EXCESSIVE SPRAYING OF JONES WHO IS MENTALLY HANDICAPPED

(c) IN DELIBERATE INDIFFERENCE OR IN RECKLESS DISREGARD OF THE POSSESSION OF CERTAIN POWERS THE DEFENDANT(S) WERE CLOAKED UNDER COLOR OF LAW OR ABUSED SAID POWER BY HAVING JONES EXCESSIVELY SPRAYED WITH PEPPER "O.C." SPRAY BY THEIR SUBORDINATES

(ii) IN DELIBERATE INDIFFERENCE OR IN RECKLESS DISREGARD OF THE UNITED STATES CONSTITUTION OR PENNSYLVANIA STATE LAW THE DEFENDANT(S) WHETHER THRU SANCTIONING BY ACT(S) OR OMISSION OR THE LITERAL PHYSICAL ATTACK WERE, IN VIOLATION OF JONES CONSTITUTIONAL PRIVILEGED IMMUNITIES OR RITES

JONES REALLEGES & INCORPORATES PARAGRAPHS 1-2 8

29 THEREFORE JONES AVERS THAT THE DEFENDANT(S) VIOLATED HIS 1ST 4TH 8TH & 14TH AMENDMENT RITES THRU APPROVAL OF THEIR SUBORDINATES PERSISTENT TORTURE(S) & ABUSIVE BEHAVIOR WHICH AMOUNTED TO EXTREME GROSS NEGLIGENCE IN THE LEAST OR AT WORST A VIOLATION OF THE FEDERAL TORTURE ACT AS DEFINED ABOVE

30 JONES HAS NO PLAIN ADEQUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN
JONES HAS BEEN OR WILL CONTINUE TO BE irreparably injured IN THE CONDUCT OF THE DEFENDANTS
UNLESS THE COURT(S) GRANT THE DECLARATORY & INSUMMONABLE RELIEF WHICH JONES SEEKS

1X. PRAYER FOR RELIEF

31 THEREFORE JONES RESPECTIVELY & SO PRAYS THAT THE COURT(S) ENTER JUDGEMENT GRANTING JONES:
32 A DECLARATION THAT THE ACTS & OMISSIONS DESCRIBED HEREIN VIOLATED JONES' RITES UNDER
THE CONSTITUTION & LAWS OF THE UNITED STATES

33 A PRELIMINARY & PERMANENT INJUNCTION ORDERING DEFENDANT(S): JOHN WEETZEL DORINA
WALTER & TAPES BICKELL TO TRANSFER JONES ULTIMATELY REMOVING JONES FROM ANY & ALL
POSSIBLE FUTURE ATTACKS STEMMING FROM RETALIATION

34 A RESTRAINING ORDER STOPPING THE DEFENDANT(S) FROM SPRAYING OR HAVING JONES SPRAYED
ALONG WITH DEFENDANT(S) BEING RESTRAINED FROM TAKING JONES' PROPERTY (i.e LEGAL ETC.)

35 COMPENSATORY DAMAGES IN THE AMOUNT OF \$ 95,000⁰⁰ AGAINST ~~ONE~~ DEFENDANT(S) JOINTLY &
SEPARATELY

36 PUNITIVE DAMAGES IN THE AMOUNT OF \$ 2,500⁰⁰ AGAINST EACH DEFENDANT

37 A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY

38 PLAINTIFF'S COST IN THIS SUIT

39 ANY ADDITIONAL RELIEF THE COURT(S) JUST PROPER & EQUITABLE

RESPECTFULLY SUBMITTED

MARCELLUS FLO. JONES

KF 2421

S.C. 1-@ Huntington
1100 Pike St
Huntington W. Va 26301

X° VERIFICATION

41 I HAVE READ THE FOREGOING COMPLAINT & HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE & BELIEF & THAT THOSE I BELIEVE THEM TO BE TRUE, I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE & CORRECT

42

EXECUTED @: Huntington County / PENNSYLVANIA
ON THIS: THE 6TH DAY OF MAY 2013
MARCELLUS FLO. JONES

(6)

S.J. District Court
P.O. Box 11418

DC-138A	235 N. Washington
CASH	Scranton, Pa. 18501
SLIP	COMMONWEALTH OF PENNSYLVANIA
	DEPARTMENT OF CORRECTIONS

1. REQUISITIONING INMATE

DOC NUMBER	NAME (PRINT)	LOCATION	DATE
DC 3486	Robert W. Denk	CA. #20	5/18/13

2. ITEMS TO BE CHARGED TO MY ACCOUNT

Please deduct the amount that is
needed for postage from my
account

3. INMATE'S SIGNATURE	4. OFFICIAL APPROVAL	
<i>Robert W. Denk</i>	<i>Comer</i>	
5. BUSINESS OFFICE'S SPACE		
CHARGE ENTERED	DATE	BOOKKEEPER
\$		

Name WILLIAM RAY
Number K 242

1100 Pike Street
Huntingdon, PA 16654-1112

CLERK OF COURT

INMATE MAIL
PA DEPARTMENT
OF CORRECTIONS



UNITED STATES POSTAGE
02 1M \$ 00.86
008002952 MAY 17 2013
MAILED FROM ZIP CODE 166

RECEIVED 235 WASHINGTON AVE
SCRANTON, PENNSYLVANIA 18501-1198
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Inmate Mail - PA DEPT OF CORRECTIONS

